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ELECTRONICALLY FILED  
DOC #:  
DATE FILED: SEP 11 2007

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September 10, 2007

**BY FAX: (212) 805-0426**

Honorable Laura T. Swain  
United States District Judge  
Southern District of New York  
500 Pearl Street, Room 755  
New York, New York 10007

**MEMO ENDORSED**

IT IS ORDERED that counsel to whom this Memo Endorsement is sent is responsible for faxing or otherwise delivering promptly a copy to all counsel and unrepresented parties and filing a certificate of such service within 5 days from the date hereof. Do not fax such certification to Chambers.

Re: Othello Cheeks v. City of New York, et al., 07 Civ. 5690 (LTS)

Your Honor:

I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, representing defendant City of New York ("City"). I write to respectfully inform the Court that this office is in the process of obtaining outside counsel for the defense of this case. Thus, defendant City expects private counsel to take over its defense in the near future. Defendant City therefore respectfully requests an extension of time to answer or otherwise respond to the complaint from today's date until October 25, 2007, so that remaining issues regarding representation may be resolved and new defense counsel may adequately respond to the complaint.<sup>1</sup> Defendant City also requests an adjournment of the initial conference scheduled for Friday, September 14, 2007, until a date and time after issue has been joined. Plaintiff's counsel consents to these requests.

Plaintiff claims *inter alia* that defendant City and its employees were negligent, deliberately indifferent to plaintiff's safety and medical needs, and guilty of intentional infliction of emotional distress, when "guards" allowed plaintiff to be repeatedly stabbed by an

<sup>1</sup> Defendant City has also received a document purporting to be an amended complaint, which names "Fort Washington Men's Shelter"; "Project Renewal"; New York City Department of Homeless Services; and 10 "John Does" as defendants. However, upon information and belief, the purported amended complaint has not yet been filed with the Court.

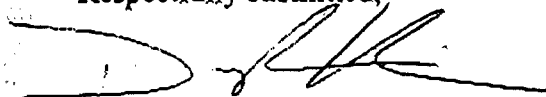
unidentified civilian in the Fort Washington Men's Shelter. However, defendant City does not operate the Fort Washington Men's Shelter. Rather, at the time of the incident (and presently), the shelter is operated by Project Renewal.

Upon information and belief, Project Renewal's contract with defendant City to operate the Fort Washington Men's Shelter entitles defendant City to representation and indemnification from Project Renewal. This situation is unusual for defendant City in § 1983 litigation, and as such, we require additional time to allow private defense counsel to take over this matter, assess the case, and respond to the allegations in the complaint.

Accordingly, defendant City requests an enlargement of time to respond to the complaint until October 15, 2007, and an adjournment of the scheduled September 14, 2007, initial conference until a date deemed appropriate by the Court after issue has been joined so that defendant City's interests are not prejudiced while the change of counsel is finalized in this matter. One previous request for an extension for Defendant City was granted in this action. The Court's patience on this matter is greatly appreciated.

Thank you for your consideration herein.

Respectfully submitted,

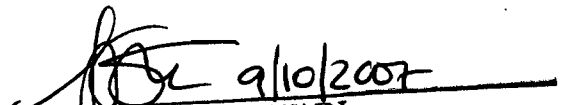


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cc: Mr. Nkereuwem Umoh (by fax: 718-360-1916)  
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*The request is granted.  
The initial conference date  
is adjourned to November 16, 2007  
at 11:15AM.*

SO ORDERED.

  
9/10/2007  
LAURA TAYLOR SWAIN  
UNITED STATES DISTRICT JUDGE